

OPEN MEETING ITEM

COMMISSIONERS
MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



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ARIZONA CORPORATION COMMISSION

DATE: March 12, 2004
DOCKET NO: W-01445A-03-0559
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Opinion and Order on the

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ARIZONA WATER COMPANY (CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MARCH 22, 2004

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 30 AND 31, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

MAR 12 2004

DOCKETED BY	
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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY TO EXTEND ITS
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY IN CASA GRANDE, PINAL
12 COUNTY, ARIZONA.

DOCKET NO. W-01445A-03-0559

DECISION NO. _____

OPINION AND ORDER

13 DATE OF HEARING: February 17, 2004

14 PLACE OF HEARING: Phoenix, Arizona

15 ADMINISTRATIVE LAW JUDGE: Amanda Pope

16 APPEARANCES: Mr. Robert W. Geake, on behalf of Arizona Water
17 Company; and

18 Mr. David Ronald, Staff Attorney, Legal Division, on
19 behalf of the Utilities Division of the Arizona
20 Corporation Commission.

21 **BY THE COMMISSION:**

22 On August 12, 2003, Arizona Water Company ("AWC") filed with the Arizona Corporation
23 Commission ("Commission") an application for approval to extend its Certificate of Convenience
24 and Necessity ("Certificate" or "CC&N") to provide water service to an additional area in Casa
25 Grande, Pinal County, Arizona.

26 On December 10, 2003, a Procedural Order was issued setting this matter for hearing on
27 February 17, 2004 and setting various procedural deadlines.

28 On December 22, 2003, AWC published notice of the hearing in the *Casa Grande Dispatch*.

On December 23, 2003, AWC filed a Motion to Expedite Hearing.

On December 31, 2003, a Procedural Order was issued denying AWC's Motion.

On January 7, 2004, AWC filed a Certificate of Publication indicating that all property
owners in the proposed extension area were mailed notice of the application and hearing date and that

1 notice of the hearing was published in the *Casa Grande Dispatch* on December 22, 2003.

2 On January 9, 2004, the Commission's Utilities Division Staff ("Staff") filed a Staff Report in
3 this matter.

4 On February 17, 2004, a full public hearing was convened before a duly authorized
5 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. AWC and Staff
6 entered an appearance through counsel. No members of the public appeared to provide public
7 comment. At the conclusion of the hearing, the matter was taken under advisement pending
8 submission of a Recommended Opinion and Order to the Commission.

9 * * * * *

10 Having considered the entire record herein and being fully advised in the premises, the
11 Commission finds, concludes, and orders that:

12 **FINDINGS OF FACT**

13 1. AWC is an Arizona corporation that provides water utility service to approximately
14 67,000 customers in portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino, and
15 Pinal counties in Arizona. AWC was granted its Certificate in Decision No. 28794 (March 1955).

16 2. On August 12, 2003, AWC filed with the Commission an application for an extension
17 of its existing Certificate in Casa Grande, Pinal County, Arizona to include an overall area of 11
18 square miles, which is more accurately described in Exhibit A, attached hereto and included herein by
19 reference. This proposed extension area is adjacent to the eastern boundary of AWC's existing Casa
20 Grande CC&N and the western boundary of AWC's existing Tierra Grande CC&N and will serve to
21 interconnect these two service areas.

22 3. On December 10, 2003, a Procedural Order was issued setting this matter for hearing
23 on February 17, 2004 and setting various procedural deadlines.

24 4. On December 22, 2003 AWC published notice of the hearing in the *Casa Grande*
25 *Dispatch*.

26 5. On December 23, 2003, AWC filed a Motion to Expedite Hearing.

27 6. On December 31, 2003, a Procedural Order was issued denying AWC's Motion.

28 7. On January 7, 2004, AWC filed a Certificate of Publication indicating that all property

1 owners in the proposed extension area were mailed notice of the application and hearing date and that
2 notice of the hearing was published in the *Casa Grande Dispatch* on December 22, 2003.

3 8. No intervention requests or objections to the application were filed.

4 9. On January 9, 2004, the Commission's Utilities Division Staff ("Staff") filed a Staff
5 Report in this matter recommending conditional approval of the application. Staff recommended: (1)
6 that AWC charge its existing rates and charges in the proposed extension area; (2) that AWC file a
7 copy of the developers' Certificate of Assured Water Supply within 365 days of the effective date of
8 any Decision in this matter; and (3) that no AWC main extension agreement associated with the
9 proposed extension be approved by the Commission unless the agreement facilitates the proposed
10 system interconnection or the agreement is subsequent to the completion of the proposed system
11 interconnection. Staff further recommended that the Commission's Decision granting the extension
12 to AWC's Certificate be considered null and void without further order of the Commission should
13 AWC fail to meet the above conditions within the time specified.

14 10. The hearing was held as scheduled on February 17, 2004. William Garfield testified
15 on behalf of AWC, and Jim Fisher testified on behalf of Staff.

16 11. AWC has received a request from Harvard Investments ("Harvard") to provide water
17 service to approximately 480 acres located in the western portion of the area described in Exhibit A,
18 which will be subdivided into approximately one acre lots.

19 12. AWC has also received a request from Core Group Consultants Ltd. ("Core") to
20 provide water service to approximately 240 acres located in the eastern portion of the area described
21 in Exhibit A, which will serve residents of a development to be known as Florence County Estates.

22 13. Mr. Garfield testified that Harvard had withdrawn its request for service based upon
23 representations made by the City of Casa Grande ("City") that the Harvard project is located within
24 the City's service area and will be served by the City.

25 14. Mr. Garfield stated, and Staff agreed, that there are no other water systems, including
26 the City, operating or prepared to operate within the area described in Exhibit A. Mr. Garfield further
27 testified that the Harvard development is not within the City limits.

28 15. Mr. Garfield further testified that approximately one week prior to the hearing, the

1 Harvard representative was given notice of the hearing to be held on February 17, 2004 and was
2 informed that AWC did not intend to exclude the area to be developed by Harvard from its CC&N.
3 Mr. Garfield indicated that the Harvard representative indicated his continuing belief that service
4 from AWC would be the logical and economical solution to its project and expressed no objection to
5 inclusion in the extension area.

6 16. Mr. Garfield stated that he believes Harvard will continue to seek water service from
7 AWC should AWC's application for an extension be granted.

8 17. Mr. Garfield further testified that because there are neither providers nor a water
9 supply adjacent to the Harvard project, Harvard will incur considerable expense in developing water
10 production, storage and distribution should the project be excluded from AWC's Certificate.

11 18. Neither Harvard nor the City of Casa Grande filed an intervention request or an
12 objection to AWC's application, and neither entered an appearance at the hearing.

13 19. According to its application, AWC estimates that there will be 560 customers in the
14 proposed extension area at the end of five years.

15 20. Mr. Garfield testified that the proposed extension area is adjacent to the eastern
16 boundary of AWC's existing Casa Grande CC&N and the western boundary of AWC's existing
17 Tierra Grande CC&N and will serve to interconnect these two service areas.

18 21. Mr. Garfield testified that its existing Casa Grande system currently serves
19 approximately 14,000 customers and its existing Tierra Grande system currently serves
20 approximately 345 customers.

21 22. Mr. Garfield testified that AWC's existing facilities are adequate to serve the proposed
22 developments within the area sought to be certificated herein. Mr. Garfield further stated that AWC's
23 ability to serve the proposed developments would be enhanced by the interconnection of its Casa
24 Grande and Tierra Grande systems.

25 23. In its Staff Report, Staff indicates that with fourteen wells, AWC's Casa Grande
26 system can accommodate approximately 1,615 additional connections, yet Tierra Grande's two wells
27 do not supply adequate capacity to serve the potential customers.

28 24. At the hearing, however, Staff testified that its statement with regard to the Tierra

1 Grande system should be amended to indicate that AWC's Tierra Grande system may not have
2 adequate water capacity to serve all of the potential customers contemplated in AWC's application
3 absent the contemplated interconnection of the systems.

4 25. Mr. Garfield testified that AWC will fund the interconnection and provide service to
5 the area described in Exhibit A with advances in aid of construction. AWC will bear the expense of
6 any additional wells or storage should the necessity arise.

7 26. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
8 maximum containment level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10
9 µg/l. The date for compliance with the new MCL is January 23, 2006.

10 27. Mr. Garfield testified that 11 of the 16 wells within the combined Casa Grande and
11 Tierra Grande systems currently exceed the new arsenic MCL of 10 µg/l.

12 28. Mr. Garfield testified that AWC plans to address its arsenic compliance by developing
13 two or more plants to treat multiple wells.

14 29. Staff testified that its recommendation in the Staff Report relating to the filing of a
15 main extension agreement should be amended. Specifically, Staff recommends that AWC file a main
16 extension agreement associated with the extension area within 365 days of any decision in this
17 matter.

18 30. AWC has provided notice of the application and the hearing thereon pursuant to the
19 December 10, 2003 Procedural Order.

20 31. AWC has a backflow and curtailment tariff on file with the Commission.

21 32. AWC has the necessary franchise from the Pinal County Board of Supervisors for the
22 area described in Exhibit A.

23 33. There are no other public service corporations or municipally owned water systems
24 authorized to provide or providing water service in the area requested to be certified herein.

25 34. AWC is current on its filings with the Commission.

26 35. AWC is current on the payment of its property and sales taxes.

27 36. AWC is in full compliance with the requirements of Arizona Department of
28 Environmental Quality and is delivering water that meets the water quality standards of the Safe

1 Drinking Water Act.

2 37. AWC is within the Arizona Department of Water Resources ("ADWR") Active
3 Management Area and is in compliance with ADWR's reporting and conservation rules.

4 38. AWC has indicated that it will charge its existing Casa Grande rates and charges to
5 customers in the area described in Exhibit A.

6 39. Staff testified that approval of the application would serve the public interest.

7
8 **CONCLUSIONS OF LAW**

9 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
10 Constitution and A.R.S. § 40-281 *et seq.*

11 2. The Commission has jurisdiction over AWC and the subject matter of the application.

12 3. Notice of the application was provided in accordance with law.

13 4. There is a public need and necessity for water utility services in the proposed extension
14 area.

15 5. AWC is a fit and property entity to receive an extension of its water Certificate which
16 encompasses the area more fully described in Exhibit A attached hereto.

17 6. Staff's recommendations in Findings of Fact No. 9, as amended in Findings of Fact No.
18 29, are reasonable and should be adopted.

19
20 **ORDER**

21
22 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an
23 extension of its Certificate of Convenience and Necessity to include the area described in Exhibit A,
24 attached hereto and incorporated herein by reference, is hereby granted subject to compliance with
25 the following ordering paragraphs.

26 IT IS FURTHER ORDERED that Arizona Water Company shall charge the customers in the
27 area more fully described in Exhibit A its existing Casa Grande rates and charges until further
28 ordered by the Commission.

1 IT IS FURTHER ORDERED that Arizona Water Company shall file a copy of the
2 Developers' Assured Water Supply for each respective development with the Commission within 365
3 days of this Decision.

4 IT IS FURTHER ORDERED that Arizona Water Company shall file a main extension
5 agreement associated with the extension area more fully described in Exhibit A with the Commission
6 within 365 days of this Decision.

7 IT IS FURTHER ORDERED that in the event Arizona Water Company fails to meet the
8 above conditions within the time specified, this Decision is deemed null and void without further
9 Order of the Arizona Corporation Commission.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

12

13

14

CHAIRMAN

COMMISSIONER

COMMISSIONER

15

16

CHAIRMAN

COMMISSIONER

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19

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
Secretary of the Arizona Corporation Commission, have
hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this ____ day of _____, 2004.

20

21

BRIAN C. McNEIL
EXECUTIVE SECRETARY

22

23

DISSENT _____

24

AP:mj

25

26

27

28

SERVICE LIST FOR:

ARIZONA WATER COMPANY

DOCKET NO.:

W-01445A-03-0487

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EXHIBIT "A"

Sections 19, 20, 21, 22, 23, W ½ 24, W ½ 25, 26, 27, 28, 29, & 30, all in Township 6 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.